

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/805,695

Group Art Unit: 1761

Filed: March 22, 2004

Examiner: Steven N Leff

Applicant: Paul V. Greco

Attorney Docket: Greco-001

Title: Weighted Infusion
Beverage Package

Honorable Commissioner for Patents
Alexandria, VA 22313

Sir:

This is a timely reply to an Office Action dated July 23, 2007. As no claims have been added, and no extension fee is required, no fees are enclosed herewith. If any additional fee is due, please charge the fee to deposit account no. 07-1732.

STATEMENT OF THE CLAIMS

1. (currently amended) An infusion beverage package comprising:

a body portion comprising overlying layers of porous material that are joined to form at least one compartment, said at least one compartment carrying infusion beverage product in addition to a weight, said porous material of said at least one compartment allowing for passage of water therethrough for infusion of said infusion beverage product carried in said at least one compartment and said weight causing that causes said body portion to sink in water, wherein said weight is realized from the group consisting of ceramic material, porcelain material, and naturally-occurring rock material.

2. (previously presented) An infusion beverage package according to claim 1, wherein:

said at least one compartment carries an agent that imparts flavor into a solution during steeping of said infusion beverage product.

3. (previously presented) An infusion beverage package according to claim 1, wherein:

said overlying layers of porous material are joined together by one of thermal welding, compression, folding or stitching to form said at least one compartment.

4. (original) An infusion beverage package according to claim 1, wherein:

said at least one compartment comprises a first compartment distinct from a second compartment, said first compartment carrying infusion beverage product and said second compartment carrying said weight.

5. (previously presented) An infusion beverage package according to claim 1, wherein:

said weight comprises a material that is non-toxic, insoluble, odorless and flavorless.

6 - 9 (cancelled)

10. (original) An infusion beverage package according to claim 1, wherein:

said porous material comprises a sheet of fibrous cellulosic material.

11. (previously presented) An infusion beverage package according to claim 1, wherein:

said porous material withstands immersion into boiling water without damage or disintegration in addition to being non-toxic, odorless and flavorless.

12. (previously presented) An infusion beverage package according to claim 2, wherein:

said agent is selected from the group consisting of sugar and a sugar substitute.

13. (original) An infusion beverage package according to claim 1, further comprising:

a string having a first end opposite a second end, wherein the first end is anchored to said body portion; and

a tag affixed to said second end of said string.

14. (original) An infusion beverage package according to claim 13, wherein:

said tag carries product indicia.

15. (original) An infusion beverage package according to claim 1, further comprising:
two body portions that extend from a hinged interface.
16. (original) An infusion beverage package according to claim 15, further comprising:
a bottom wall that extends between the two body portions, said bottom wall and
two body portions defining a space for solution to flow through during steeping, and
wherein said bottom wall has a compartment for carrying said weight.
17. (previously presented) An infusion beverage package according to claim 16,
wherein:
said bottom wall is foldable.
18. (original) An infusion beverage package according to claim 1, wherein:
said infusion beverage product is selected from the group consisting of tea and
coffee.
19. (previously presented) An infusion beverage package according to claim 1, wherein:
said infusion beverage product is selected from the group consisting of soups,
powdered milk, medicinal preparations, food seasonings, and dyes.

REMARKS

In the Office Action mailed July 23, 2007, claim 6 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-4, 8-13, and 18-19 stand rejected under 35 USC 102(b) as being anticipated by GB 2247001 (hereinafter "Arcari"). Claims 1 and 10-11 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 3,257,212 to Kasket (hereinafter "Kasket"). Claims 5-7 stand rejected under 35 USC 103(a) as being unpatentable over Arcari in view of Kasket, and further in view of US Patent No. 6,221,309 B1 to Manjoo Kim (hereinafter "Kim") and the "Tea Rock" teabag weight shown by the website www.mightybeancoffee.com in March 2004. Claims 15-17 stand rejected under 35 USC 103(a) as being unpatentable over Arcari in view of US Patent No. 3,542,561 to A. Rambold (hereinafter "Rambold"). Applicants have amended claim 1 to more particularly define over the prior art. Applicants respectfully submit that amended claim 1 is not taught or suggested by the cited prior art, alone or in any combination thereof.

More specifically, claim 1 has been amended to include the limitations of claim 7 as originally filed, and now recites, *inter alia*,

... a body portion comprising overlying layers of porous material that are joined to form at least one compartment, said at least one compartment carrying infusion beverage product in addition to a weight, said porous material of said at least one compartment allowing for passage of water therethrough for infusion of said infusion beverage product carried in said at least one compartment and said weight causing that causes said body portion to sink in water, wherein said weight is realized from the group consisting of ceramic material, porcelain material, and naturally-occurring rock material. (emphasis added)

Nowhere does the cited prior art teach or suggest these features.

In the rejection of claim 7, which is now most pertinent to amended claim 1 as it recites the features of claim 7, the Examiner admits that Arcari and Kasket fail to teach or suggest a “weight realized from the group consisting of ceramic material, porcelain material, and naturally-occurring rock material,” but goes on to assert that it would be obvious to use the ceramic fishing weight of Kim as a substitute for the weight material of Kasket. Such analysis is clearly flawed and does not provide the basis for a proper 103 obvious rejection for the reasons set forth below in detail.

First, amended claim 1 requires at least one compartment realized from a porous material that carries both infusion beverage product and a weight. The weight is realized from the group consisting of ceramic material, porcelain material, and naturally-occurring rock material. Kasket teaches away from this configuration as it employs a stick 10 with a **non-porous** plastic pouch 7 that surrounds the stick 10. A **metal** weight 13 is attached to the bottom of the stick 10 or a “non-porous” plastic pouch 7. By attaching the weight to the bottom of the stick 10 or to the “non-porous” plastic pouch 7, Kasket teaches away from using a porous material to realize a compartment for carrying a weight as required by claim 1. By using a metal weight, Kasket teaches away from using a weight realized from ceramic material, porcelain material, and naturally-occurring rock material as required by claim 1.

Second, Kim as well as all of the other cited prior art references fail to remedy the shortcomings of Kasket. Kim teaches a method for manufacturing a fishing weight from a ceramic material. It does not teach or suggest the use of a ceramic weight as part of an infusion beverage product. Arcari discloses detachable compartments in which flavoring, sweeteners, vegetable matter, or other consumable and water soluble materials may be disposed. It does not teach or suggest the use of a weight realized from the group consisting of ceramic material, porcelain material, and naturally-occurring rock material. The "tea rock" teabag weight is attached externally to the teabag via a string that twists around a notch in the stone weight. Structurally, the weight is disposed externally from the teabag. It is not contained within a compartment integrally formed as part of an infusion beverage product as required by claim 1.

Third, it is improper to combine Kim with Kasket or any one of the other cited prior art references. Kim teaches a method for manufacturing a fishing weight from a ceramic material. It does not, however, teach or suggest any applications outside of that context. There is no reason to believe that a person skilled in the art of manufacturing or designing teabag products would find it obvious to combine a reference that teaches specific steps for molding a specific kind of fishing weight with references relating to the creation or design of teabags or beverage package designs. The Examiner has not shown any teaching, suggestion, or motivation for combining these two references in vastly different fields. Furthermore, the impetus behind the design taught in Kim was to prevent

environmental pollution caused by the oxidation of lead weights on the ocean floor after they were discarded. The use of ceramic materials to allow fishermen to cast their lures and bait into the ocean without polluting the environment is a far cry from their use to facilitate the creation of porous pockets for carrying weights and substances for beverage packages or tea bags. The Examiner has stated that any judgment on obviousness is necessarily a reconstruction based upon proper hindsight reasoning so long as it takes into account the level of ordinary skill at the time the claimed invention was made and does not include knowledge gleaned only from Applicant's disclosure. However, the Examiner has not shown any teaching, suggestion or motivation for a designer of teabags of ordinary skill in the art to look to inventions in the fishing industry for guidance. Every invention is arrived at in part through using known devices and knowledge to produce something that is unknown. Given the existence of tea bags for roughly one hundred years, the absence of art containing all of the elements of Applicant's invention is clear evidence of nonobviousness.

Thus, the cited prior art, alone and any combination thereof, fails to teach or suggest important limitations of amended claims 1. For these reasons, amended claim 1 is patentable over the cited prior art.

The dependent claims 2-5 and 10-19 are patentable over the cited prior art for those reasons advanced above with respect to claim 1 from which they respectfully

depend and for reciting additional features that are neither taught or suggested by the cited prior art.

For example, claim 2 recites that “said at least one compartment carries an agent that imparts flavor into a solution during steeping of said infusion beverage product.” Nowhere does the cited prior art teach or suggest a body realized from a porous material that defines at least one compartment for carrying an infusion beverage product, weight, and sweetner as required by claim 2.

In another example, claim 16 requires “a bottom wall that extends between the two body portions **(that extend from a hinged interface)**, said bottom wall and two body portions defining a space for solution to flow through during steeping, and wherein said bottom wall has a compartment for carrying said weight.” Nowhere does the cited prior art teach or suggest these features. The Examiner rejects claim 16 under 35 USC 103(a) as being obvious over Kasket in view of U.S. Patent No. 3,542,561 to Rambold. The Examiner’s analysis of claim 16 is flawed as it relies on prohibited hindsight to form the previously unobvious invention. More particularly, the Examiner’s analysis fails to provide any teaching, suggestion or inference in the prior art as a whole (or from the knowledge generally available to one of ordinary skill in the art) for modifying Kasket and Rambold to show the weight carried with a “bottom wall compartment” as required by claim 16. Instead, the Examiner relies on hindsight reasoning provided by the Applicant’s disclosure. For these reasons, the Examiner has failed to establish a prima facie case of obviousness for claim 16.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay P. Sbrollini". The signature is fluid and cursive, with the first name "Jay" being more prominent.

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October 23, 2007